

HOST AGREEMENT

BETWEEN

THE GOVERNMENT OF THE  
UNITED REPUBLIC OF TANZANIA

AND

THE AFRICAN UNION

ON

THE SEAT OF THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

IN ARUSHA, TANZANIA

1

**Whereas** the attainment of the objectives of the African Charter on Human and Peoples' Rights of 16 June 1981 requires the establishment of a judicial organ to complement the protective mandate of the African Commission on Human and Peoples' Rights;

**Taking into account** the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, adopted by the Assembly of Heads of State and Government of the Organisation of African Unity on 9 June 1998 in Ouagadougou, Burkina Faso and which entered into force on 25 January 2004;

**Considering** that the decision to establish the African Court on Human and Peoples' Rights was inspired by the declared commitment and determination of the Assembly of Heads of State and Government of the Member States of the African Union to ensure the effective protection of human and peoples' rights in Africa;

**Cognizant** that such a judicial body would assist in the achievement of the objectives pursued by the African Union in the field of human rights protection;

**Considering further** that the African Court on Human and Peoples' Rights is an institution established in the framework of the African Union;

**Bearing in mind** that pursuant to Articles 17 (3) and (4) of the Protocol to the African Charter relating to the Establishment of an African Court on Human and Peoples' Rights, Judges of the Court shall enjoy from the moment of their election and throughout their term of office, the immunities extended to diplomatic agents in accordance with international law and at no time shall they be held liable for any decision or opinion issued in the exercise of their functions;

**Mindful** that pursuant to Article 25 (1) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, the Court shall have its seat at the place determined by the Assembly from among States Parties to the Protocol;

**Further Cognizant** of the Decision EX.CL/195 (VII) Rev.1 Annex III of July 2005 of the Executive Council on the Criteria for Hosting the AU Organs;

**Recalling** Decision Assembly/AU/Dec. 83(V) of July 2005 to the effect that the seat of the Court established from the merger of the Court of Justice of the African Union and the African Court on Human and Peoples' Rights shall also serve as the seat of the latter pending the merger and shall be in the Eastern Region;





**Whereas** the Government of the United Republic of Tanzania has offered to host the African Court on Human and Peoples' Rights;

**Considering** that the United Republic of Tanzania has been selected to host the African Court;

**NOW THEREFORE**, the African Union and the Government of the United Republic of Tanzania represented by their duly accredited Representatives;

**HAVE AGREED** as follows:

### Article I DEFINITIONS

For the purpose of this Agreement, and unless the context otherwise requires, the following terms and expressions shall have, the meaning as hereunder:

**"Act"** means the Constitutive Act of the African Union;

**"African Union"** means the African Union established by the Constitutive Act of the African Union adopted on 11 July 2000 and which entered into force on 26 May 2001;

**"Agents"** means persons who represent Member States before the Court;

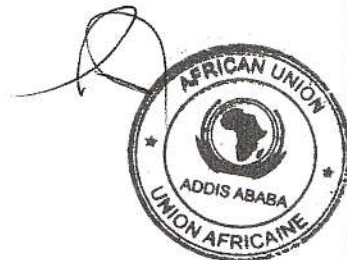
**"Agreement"** means this agreement between the United Republic of Tanzania and the African Union;

**"Appropriate authorities"** means such national, local or other authorities in the United Republic of Tanzania, as may be appropriate under the laws of the United Republic of Tanzania;

**"Assembly"** means the Assembly of Heads of State and Government of The African Union;

**"Commission"** means the African Union Commission as referred to in Article 20 of the Constitutive Act of the African Union;

**"Counsel or Advocate"** means a person who legally represents or assists a party or an agent before the Court, referred to as such in Article 10 (2) of the Protocol.

**"Court"** means the African Court on Human and Peoples' Rights as established by the Protocol to the African Charter on Human and Peoples' Rights adopted on 9 June 1998 and which entered into force on 25 January 2004;

**"Executive Council"** means the Executive Council of Ministers of the African Union as referred to in Article 10 of the Constitutive Act of the African Union;

**"Experts"** means persons called at the instance of the Court or the parties to present testimony based on special knowledge, skills, experience or training as referred to in Article 26(2) of the Protocol;

**"General Convention"** means the Convention on the Privileges and Immunities of the Organisation of African Unity (OAU) adopted by the Assembly of Heads of State and Government of the African Union (OAU) on 25 October 1965 and acceded to by the United Republic of Tanzania on 4 March 1985;

**"Government"** means the Government of the United Republic of Tanzania;

**"Headquarters of the Court"** means the seat of the Court including the buildings, offices, premises, structures or portions thereof that at any given time are occupied or used by the Court in the territory of the United Republic of Tanzania;

**"Judge"** means a Judge of the Court;

**"Laws of the United Republic of Tanzania"** includes legislative acts, decrees, orders or regulations issued by or under the authority of the Government or any other appropriate Tanzanian Authority;

**"Member State"** means a Member State of the African Union;

**"Non-Governmental Organizations"** means Non-Governmental Organizations with observer status before the African Commission on Human and Peoples' Rights, as referred to in Article 5(3) of the Protocol;

**"Officials and other employees of the Court"** means all members of the staff serving the Court irrespective of nationality, except those recruited locally on hourly rates of pay;

**"Parties"** means all entities and individuals that have access to the Court regarding advisory opinions and contentious matters in accordance with Articles 4 and 5 of the Protocol;

**"Premises and Facilities"** means areas designated as the offices of the Court or and any other area with buildings and structures, equipment and other






installations and facilities as well as surrounding grounds occupied permanently or temporarily by the Court and recognized as such by the Government;

**"President"** means the President of the Court;

**"Protocol"** means the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights adopted in Ouagadougou, Burkina Faso on 9 June 1998;

**"Registrar"** means the person appointed as such in accordance with Article 24 of the Protocol;

**"Rules"** means the Rules of Procedure of the Court as referred to in Article 33 of the Protocol;

**"State-Party"** means the Member State that has ratified or acceded to the Protocol;

**"Witness or representative of the parties"** means persons referred to as such in accordance with Article 10 (3) of the Protocol;

**"The Vienna Convention"** means the Vienna Convention on Diplomatic Relations done at Vienna on 18 April 1961, to which the United Republic of Tanzania acceded on 5 November 1962.

## Article II

### PURPOSE AND SCOPE OF THE AGREEMENT

1. This Agreement shall regulate matters relating to or arising out of the establishment and functioning of the African Court on Human and Peoples' Rights and its relationship with the United Republic of Tanzania, in Tanzania.
2. The Court, its Members and its officials and employees shall respect the laws and regulations of the host country.

## Article III

### JURIDICAL PERSONALITY

1. The Court is vested with juridical personality in the United Republic of Tanzania and shall have the capacity:
  - a) to contract;
  - b) to acquire and dispose of immovable and movable property; and



- c) to institute legal proceedings and participate in legal proceedings subject to the provisions of Article VI herein.
- 2. For the purposes of this Agreement the President or his or her duly designated representative shall represent the Court.

#### Article IV

### APPLICATION OF THE GENERAL AND VIENNA CONVENTIONS

- 1. The General Convention and the Vienna Convention shall be applicable *mutatis mutandis* to the Court, its property, funds and assets, to the Headquarters, Premises and facilities of the Court, to the Judges, the Registrar, officials and other employees of the Court.
- 2. The treatment extended to the Court, the Judges, the Registrar, the officials and the other employees of the Court shall, in any case, not be less favourable than that provided for in the General Convention and the Vienna Convention.

#### Article V

### HEADQUARTERS, PREMISES AND FACILITIES

- 1. The Government shall at the initial stage, provide a secure, dedicated, equipped and furnished permanent structure at its expense, for the Court to be its Headquarters, which shall be exclusively occupied by the Court and its personnel in accordance with this Agreement and Annexes thereto. The furniture and equipment shall be in accordance with the specifications of the African Union.
- 2. Pending the provision of the permanent structure referred to in paragraph (1) above, the Government shall make available suitable temporary Court Premises in line with Technical Annex I of this Agreement.
- 3. The Government undertakes to assist the Court, as far as possible, in obtaining and making available, where applicable, water, electricity, telephone, fax, Internet and other facilities at rates or charges not less favourable than those charged to comparable consumers or users, and in the case of interruption or threatened interruption of service, to give, as far as within its powers, the same or higher priority to the needs of the Court as to international organisations or to friendly governments.
- 4. All official business between the Government and the Court shall be conducted through the Ministry in charge of Foreign Affairs or such other Government Ministries as may be agreed upon between the Government and the Court.






5. The Government shall provide, at its expense, an appropriate, furnished and equipped official residence for the President and for the Registrar of the Court in accordance with Technical Annex II of this Agreement. The Government undertakes to facilitate the provision of secure accommodation for Judges at the expense of the Court.
6. The repair, maintenance, renovation and relocation of utilities, conduits, mains and sewers for the Premises, residences and houses provided by the Government shall be done by the Court at its expense.
7. Technical Annexes detailing the specification of premises and facilities as provided for in this Agreement shall form an integral part of this Agreement.

#### Article VI

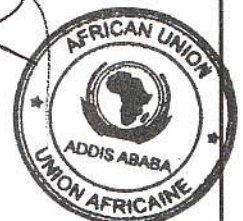
### IMMUNITY OF PROPERTY, FUNDS AND ASSETS OF THE COURT

The Premises, property, funds and assets of the Court, wherever located within the United Republic of Tanzania and by whomsoever held, shall be immune from legal process, except in so far as in any particular case the Court has expressly waived its immunity, it being understood, however, that this waiver shall not extend to any acts of execution.

#### Article VII

### INVIOABILITY OF PREMISES, PROPERTY, ASSETS AND TRANSACTIONS OF THE COURT AND OF THE RESIDENCES OF THE PRESIDENT, THE JUDGES, THE REGISTRAR AND OTHER OFFICIALS OF THE COURT

1. The Premises of the Court shall be inviolable. The property, funds and assets of the Court, wherever situated in the United Republic of Tanzania and by whomsoever held shall be immune from search, requisition, confiscation, expropriation and any other form of interference or seizure whether by executive, administrative, judicial or legislative action.
2. The inviolability provided for in paragraph 1 above will apply *mutatis mutandis* to the residence of the President of the Court, the houses of the other Judges and the residences of the Registrar and the other officials of the Court.
3. Government officials whether prosecutorial, administrative, civil, security, military or police shall not enter the Premises of the Court except with the knowledge and consent of the President or his or her designated



representative. The said officials shall not enter the residence of the President, the houses of the other Judges and the residences of the Registrar and the other officials of the Court without their knowledge and consent.

4. In the event of natural disaster, fire or any other emergency constituting an immediate threat to human life and to the Premises, the consent of the President is presumed if he or she cannot be reached in time and the Government shall take the necessary prompt, protective or remedial action.

#### Article VIII

#### **PUBLIC UTILITY SERVICES FOR THE PREMISES OF THE COURT**

1. The Government shall secure, on fair conditions and upon the request of the Court, public and utility services needed by the Court which shall include but not limited to, postal, telephone and telegraphic services, electricity, water, gas, sewage, collection of waste, fire protection, security, local transportation and cleaning of public streets adjoining Court Premises.
2. In cases where electricity, water, gas or other services referred to in paragraph 1 above are made available to the Court by the Government, or where the prices thereof are under its control, the rates for such services shall not exceed the lowest comparable rates accorded to diplomatic missions or international organizations.
3. In case of "force majeure" resulting in a complete or partial disruption of the aforementioned services, the Court shall for the performance of its functions be accorded the priority given to essential agencies and organs of the Government.
4. Upon request of the Government, the President or an official designated by him or her, shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers on the premises of the Court under conditions which shall not unreasonably disturb the carrying out of the functions of the Court. Underground constructions may be undertaken by the Government on the Premises of the Court only after consultation with the President, or an official designated by him or her, and under conditions which shall not disturb the carrying out of the functions of the Court.





## Article IX

**INVIOABILITY OF COURT ARCHIVES AND DOCUMENTS**

The archives and documents of the Court, including but not limited to all the papers, correspondence, materials, books, films, tapes, registers, data-bases and computerized data and documentation belonging to it and held by whomsoever, wherever located within the United Republic of Tanzania, shall be inviolable.

## Article X

**FLAG, EMBLEM AND MARKINGS**

The Court shall be entitled to display the African Union flag, its flag, emblem and markings at or on the Premises of the Court, and to display its flag at the residence of the President, on official vehicles and as otherwise agreed between the Court and the Government.

## Article XI

**COMMUNICATIONS**

1. The Court shall enjoy, in respect of its official communications, treatment not less favourable than that accorded by the Government to international organizations in matters of cablegrams, telephotos, telephone, telegraph, telex, telefax and other modes of communication. In particular, the Court shall enjoy treatment not less favourable than that accorded by the Government in matters of priorities, tariffs and charges on mail to International Organizations.
2. The Government shall secure the inviolability of the official communications and correspondence of the Court and shall not apply any censorship of communications and correspondence of the Court, Judges and Court officials and other employees.
3. The Court shall have the right to use codes and to dispatch and receive correspondence and other materials by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.
4. The Court shall have the right to erect and operate on the Premises radio and other telecommunications equipment and to use mobile and internet equipment on African Union registered frequencies which have been coordinated with the Government and on frequencies allocated by the Government, between the Premises of the Court in the United Republic of Tanzania, and with other offices of the African Union, in particular with the Headquarters of the African Union; provided that this right shall not,






without the consent of the Government, extend to point-to-point radio communication between fixed points in the United Republic of Tanzania where a suitable terrestrial telephone infrastructure already exists, and provided further that such radio and other telecommunications equipment shall be licensed at the prescribed license fees and meet internationally accepted standards as determined by the relevant Government authorities. It is further provided that the frequencies on which any station may be operated shall be duly communicated by the Tanzanian telecommunication authorities to the International Frequency Registration Board.

5. The Court shall be entitled to install and take advantage of new and emerging information technologies. The Parties to this Agreement may conclude supplementary agreements in this regard.
6. For the fulfillment of its purposes, the Court shall have the right to publish freely and without restrictions within the host country in conformity with this Agreement any information or other material relating to its functions.

#### Article XII

#### **LAW AND AUTHORITY ON THE PREMISES OF THE COURT**

1. Except as otherwise provided in this Agreement or in the General Convention the laws and regulations of the host country shall apply within the premises of the Court.
2. The premises of the Court shall be under the control and authority of the Court as provided in this Agreement.
3. The Court shall have the power to make regulations operative on the premises of the Court for the purpose of establishing therein the conditions in all respects necessary for the full execution of its functions. The Court shall promptly inform the Government of regulations thus enacted made in accordance with this paragraph. No law or regulation of the host country which is inconsistent with a regulation of the Court shall, to the extent of such inconsistency, be applicable within the premises of the Court.

#### Article XIII

#### **PROTECTION OF THE PREMISES OF THE COURT AND THEIR VICINITY, OF THE MEMBERS OF THE COURT AND OF THEIR RESIDENCE AND HOUSES**

1. In accordance with Technical Annex V of this Agreement the Government shall ensure the security and protection of the Court so that the tranquility






of the Court is not disturbed by the intrusion of persons or groups of persons from outside the premises of the Court or by disturbances in their immediate vicinity.

2. At the request of the President or his or her designated representative, the Government shall provide adequate police services necessary for the preservation of law and order on the Premises of the Court or in the immediate vicinity thereof, and for the removal of any undesirable persons therefrom.
3. The Government shall ensure the security and protection of the Members of the Court and the residence of the President, the houses of the Judges and the residence of the Registrar.
4. The African Union and the Government may conclude supplementary agreements to provide for additional arrangements for the provision of security to the Premises, the Members of the Court, the residence of the President, the houses of the Judges and the residence of the Registrar.

#### Article XIV

#### **EXEMPTION FROM TAXATION, CUSTOM DUTIES, PROHIBITIONS OR RESTRICTIONS ON IMPORTS AND EXPORTS**

1. The Court, its assets, income and other property in the United Republic of Tanzania shall be:
  - a) exempt from all direct taxes levied by the Government.
  - b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the Court for its official use, it being understood, however, that articles imported under such exemption will not be sold in the United Republic of Tanzania except under conditions agreed to with the Government and being not less favourable than those extended to international organizations.
  - c) exempt from duties and prohibitions and restrictions on imports and exports in respect of its publications.
2. While the Court agrees that it will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, the Government agrees that when the Court is making important purchases of property for official use and which purchase attracts duties and taxes, it will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax concerned.






Article XV  
**FINANCIAL FACILITIES**

Without being restricted by financial controls, regulations or moratoria of any kind, the Court may receive, purchase, hold and transfer funds or currencies of any kind and operate bank and similar accounts in any currency as accorded to international organizations.

Article XVI  
**SOCIAL SECURITY AND PENSION FUND**

The Court shall be exempt from all compulsory contributions, and its officials and other employees of the Court shall not be required by the Government to participate in any social security scheme of the United Republic of Tanzania.

Article XVII  
**JUDGES' AND OFFICIALS' DIPLOMATIC PRIVILEGES AND IMMUNITIES**

1. The Judges and the Registrar shall, enjoy full diplomatic immunities as provided for in Article VI (3) of the General Convention and in the Vienna Convention.
2. The Judges and the Registrar shall not be liable to civil or criminal proceedings, arrest or detention, imprisonment or damages for what is said or done by them within or outside the Court in their official capacity in the discharge of their duties. The immunity of Judges when exercising judicial functions is inviolable.
3. The Judges, the Registrar and all officials shall be:
  - a) immune from legal process for words spoken or written and all acts performed by them in their official capacity;
  - b) immune from personal arrest or detention except for nationals or permanent resident officials;
  - c) exempt from taxation in respect of salaries and other remuneration paid to them by the Court;
  - d) immune from national service obligations;
  - e) exempt from immigration restrictions and alien registration, together with their spouses, their dependents, relatives and other members of their family and personal employees who are not nationals or permanent residents of the United Republic of Tanzania;
  - f) accorded the same facilities in respect of currency or exchange restrictions as are accorded to the officials of comparable ranks in international organizations in the United Republic of Tanzania;






- g) accorded the same protection and repatriation facilities with respect to themselves, their spouses and dependent relatives and other members of their family and other personal employees who are not nationals or permanent residents of the United Republic of Tanzania, as are accorded in time of international crises or national emergencies to diplomatic envoys;
  - h) permitted free movement to, within or from the United Republic of Tanzania to the extent necessary for carrying out their mandate for and on behalf of the Court, for the purpose of their official communications, to use codes and receive papers and correspondence by courier or sealed in bags;
  - i) accorded the same immunities and facilities, including immunity from inspection and seizure of their official baggage, as are accorded to diplomatic envoys; and
  - j) permitted to import items for personal use, free of duty and other levies, prohibitions or restrictions on imports at the time of first taking up their post in the United Republic of Tanzania.
4. The President and entitled Court officials shall be permitted to import their furniture and personal effects in one or more shipments within a period of twenty four months of first taking up their post in the United Republic of Tanzania.
5. The President and entitled Court officials who are unmarried may import one motor vehicle duty free and those who are married and accompanied by members of their families may import two motor vehicles duty free. Modalities for the replacement of motor vehicles shall be agreed upon between the Court and the Government provided that such replacement shall be considered after thirty six (36) calendar months of first registration.
6. Other privileges shall be accorded to Court Officials commensurate with the privileges accorded to officials of comparable ranks of international organizations in the United Republic of Tanzania.
7. Articles imported in accordance with the immunities and privileges referred to in this Article shall not be sold in the United Republic of Tanzania except under conditions agreed to with the Government and not being less favourable than those extended to officials of comparable ranks of international organizations.
8. The African Union's Laissez-Passer shall be recognized and accepted in the United Republic of Tanzania as a valid travel document. The Government shall make necessary arrangements to facilitate entry into the United Republic of Tanzania, for Judges working on a part-time basis.





Article XVIII  
**RECRUITMENT OF LOCAL STAFF**

Recruitment of local staff shall be in accordance with Decision EX/CL/Dec.34(III) on the Proposed Structure, Human Resource Requirements and Conditions of Service for the Staff of the Commission of the African Union and Their Financial Implications adopted at the Third Ordinary Session of the Executive Council in Maputo, Mozambique from fourth (4<sup>th</sup>) to eighth (8<sup>th</sup>) July 2003.

Article XIX  
**PERSONNEL RECRUITED LOCALLY AND ASSIGNED TO HOURLY RATES**

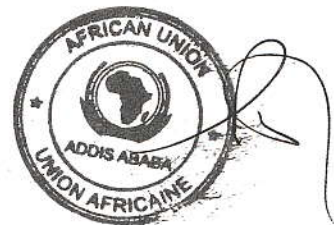
Personnel recruited by the Court locally and assigned to hourly rates shall be accorded functional immunity from legal process in respect of words spoken or written and acts performed by them in their official capacity for the Court. Such immunity shall continue to be accorded after termination of employment with the Court. They shall also be accorded such other facilities as may be necessary for the independent exercise of their functions for the Court. The terms and conditions of their employment shall be in accordance with the relevant regulations, policies, decisions and resolutions of the African Union.

Article XX  
**PERSONS PERFORMING MISSIONS FOR THE COURT**

1. Persons performing missions for the Court shall enjoy the privileges, immunities and facilities accorded as necessary for the independent exercise of their functions during the period of their missions, including time spent on journeys in connection with their mission.
2. The privileges and immunities granted to persons performing missions for the Court in this Agreement are in the interest of the Court and not for personal benefit.

Article XXI  
**PRIVILEGES AND IMMUNITIES OF AGENTS, REPRESENTATIVES,  
COUNSEL, ADVOCATES AND EXPERTS**

1. Agents, representatives, counsel, advocates and experts of the Parties or experts of the Court shall be accorded such immunities and privileges as are necessary for the proper exercise of their functions during the period of their mission, including time spent on journeys in connection with their mission and in particular they shall:



- a) be immune from personal arrest or detention;
  - b) enjoy inviolability for all papers and documents and records in whatever form, including computerized documentation;
  - c) be accorded the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;
  - d) be accorded the same protection and repatriation facilities with respect to themselves, their spouses and dependent relatives and other members of their family as are accorded in time of international crises or national emergencies to diplomatic envoys;
  - e) be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity;
  - f) for the purpose of their communication with the Court, have the right to use codes and to receive papers or correspondence by courier or in sealed bags; and
  - g) enjoy the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.
2. Visas for persons referred to in paragraph 1, when required, shall be issued as soon as possible, provided however that the provisions of the said paragraph 1 shall not imply exemption from the obligation to produce reasonable evidence to establish that persons claiming the rights granted under paragraph 1 are included in the categories specified therein, nor from the application of quarantine and health regulations.

#### Article XXII

#### **WITNESSES APPEARING BEFORE THE COURT**

- 1. The host country shall not exercise its criminal jurisdiction over witnesses appearing from outside the host country on a summons or a request of the Court in respect of acts or convictions prior to their entry into the territory of the host country.
- 2. Witnesses referred to in paragraph 1 above shall not be subjected by the host country to any measure which may affect the free and independent exercise of their functions for the Court.
- 3. The privileges and immunities enjoyed by the persons referred to in this Article shall cease after a period of 30 consecutive days from the date when the Court indicates that their presence is no longer required to assist further in the Court's business.






## Article XXIII

**ENTRY INTO, EXIT FROM AND MOVEMENT WITHIN THE HOST COUNTRY**

All persons referred to in Articles XIX, XX and XXI of this Agreement as notified by the President of the Court or his or her duly designated official of the Court shall have the right of unimpeded entry into, exit from and movement within the host country, as appropriate and for the purposes of the Court. They shall be granted facilities for speedy travel. Visas, entry permits or licenses, where required for official purposes of the Court, shall be granted without charge and as promptly as possible. The same facilities shall be accorded to persons accompanying them who have been notified as such by the President of the Court or his or her duly designated representative to the Government.

## Article XXIV

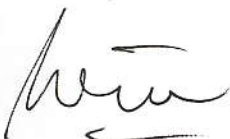
**CO-OPERATION BETWEEN THE COURT AND THE GOVERNMENT**

1. The Court shall co-operate with the appropriate Tanzanian authorities whether national, local or other authorities to facilitate the observance of the privileges and immunities granted in the interest of the Courts' functions and in accordance with this Agreement.
2. Whenever the Government considers that an abuse of a privilege or immunity conferred by this Agreement has occurred the Government shall in writing inform the President or his or her duly designated representative of the abuse and the President or his or her duly designated representative shall consult appropriate Government authorities to agree on what actions are necessary to deal with the occurrence.

## Article XXV

**OBLIGATION TO DEAL WITH BREACHES OF IMMUNITIES OR PRIVILEGES**

1. The Government and the Court acknowledge their respective obligations to inform and ensure that their respective officials, agents and servants at all times abide by and observe the provisions of this Agreement.
2. The Government and the Court, undertake to inform each other in writing details of any alleged breach of privileges and immunities provided for in this Agreement and where such allegation is substantiated, the party in breach shall undertake in writing to remedy the breach and notify the other party in writing the measure or measures taken or proposed to be taken to remedy the breach and prevent further breaches.






Article XXVI  
**WAIVER OF IMMUNITIES**

1. The privileges and immunities granted to Judges, Court officials and the categories of persons listed for this purpose in this Agreement are in the interests of the Court and its independence and not for their personal interests.
2. In case of Judges who are alleged to have breached the said privileges or immunities, the breach shall be reported in writing to the President or his or her duly designated representative and the Court shall deal with the allegations in accordance with the Protocol and the Court's Rules.
3. In case of officials and all other employees, who may enjoy the privileges and immunities under this Agreement who abuse or misuse the said privileges and immunities, the President may waive the privileges and immunities of any of those persons, if in his or her opinion, to do so would enhance the course of justice. In the case of the Registrar, this duty shall rest with the Court.

Article XXVII  
**ORDER OF PRECEDENCE**

The President of the Court shall take precedence over all diplomats accredited to the United Republic of Tanzania on matters related to the Court. Given the importance of the Court, the Judges of the Court shall enjoy a Protocol standing commensurate with their status.

Article XXVIII  
**NOTIFICATION AND IDENTIFICATION**

1. The Court shall inform the Government or its appropriate agent or authority, the imminent arrival of its new personnel who is to be employed by the Court in the performance of its business, giving names, description, designation and arrival date of the employee concerned.
2. The Government or its designated authority shall issue identification cards for validating the presence and residence of the person concerned.
3. The Court shall issue to the same person its own badge or card of identification which shall be acknowledged and respected by the Government and all its servants and agents.
4. Holders of the Courts' identification badges or cards may be required to produce and present the same to Government authorized servants or






agents for purposes of identification only and such cards or badges shall not be surrendered to or retained by the Government or its authorized servants or agents.

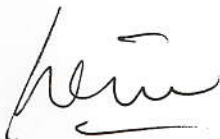
5. The provisions of paragraphs (1) and (2) above may not apply to locally recruited employees of the Court who are paid on an hourly rate.
6. The Court shall, upon termination of employment of locally recruited staff members or reassignment from the United Republic of Tanzania of other officials, ensure that their certificates of identity are returned promptly to the Government.

#### Article XXIX **DECEASED JUDGES AND OFFICIALS**

1. The Court shall take charge of and remove the remains of a Judge or Official who dies in the United Republic of Tanzania, in accordance with the applicable African Union procedures, it being understood that in the exercise of this due consideration shall be given to the relevant domestic law in force in the United Republic of Tanzania.
2. The Court shall also remove from the United Republic of Tanzania the personal property of the deceased Judge or official. The Government shall not levy national, regional or municipal estate, succession or inheritance duties and duties on transfers of movable property, the presence of which was due solely to the presence in the United Republic of Tanzania of the deceased as a Judge or Official.

#### Article XXX **SETTLEMENT OF DISPUTES**

1. Any dispute between the African Union and the Government arising out of or relating to this Agreement shall be settled amicably by negotiation or other agreed mode of settlement, failing which such dispute shall be submitted to an arbitral Tribunal at the request of either Party. Each Party shall appoint one arbitrator, and the two arbitrators so appointed shall appoint a third, who shall be the Chairperson of the Tribunal. All decisions of the arbitrators shall require a vote of two of them and shall be binding on the African Union and the Government.
2. The arbitrators shall fix the procedure of the arbitration and the expenses of the arbitration shall be borne by the African Union and the Government as assessed by the arbitrators. The arbitral award shall contain a statement of the reasons on which it is based and shall be accepted by






the African Union and the Government as the final adjudication of the dispute.

Article XXXI  
**GENERAL PROVISIONS**

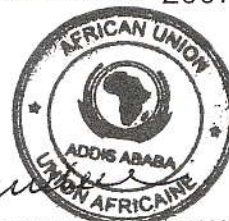
1. The African Union and the Government, through consultation and negotiation, shall settle any relevant matter for which no provision is made in this Agreement. Each Party shall give full and sympathetic consideration to any proposal advanced by the other Party under this Article.
2. The African Union and the Government may conclude additional technical annexes, agreements or arrangements to facilitate the hosting of the Court and these shall form an integral part of this Agreement.
3. Consultations and negotiations with a view to amending or revising this Agreement may be held at the request of either Party. Amendments or revision shall be made by joint written agreement between the African Union and the Government.
4. This Agreement shall enter into force upon signature by the duly authorized Representatives of the Government and the African Union.

**IN WITNESS WHEREOF**, The undersigned, being duly authorized thereto by the Government of the United Republic of Tanzania and the African Union respectively, have signed and sealed this Agreement in the English language in two originals, both texts being equally authentic.

Done at ADDIS ABABA on this 31<sup>st</sup> day of AUGUST 2007

  
.....  
FOR THE GOVERNMENT OF  
THE UNITED REPUBLIC  
OF TANZANIA

  
.....  
FOR THE AFRICAN UNION



## TECHNICAL ANNEX I

### ACCOMMODATION OF THE COURT

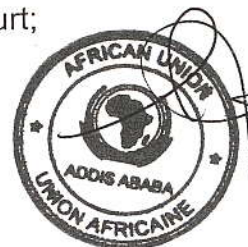
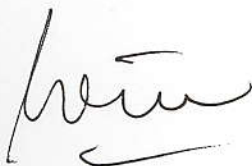
#### A. GENERAL

1. This Annex contains the basic necessities for the temporary Court premises by way of rooms, furniture equipment and utilities to enable the Court to function and operate as the ultimate Judicial Organ of the whole of Africa for Justice and Human and Peoples' Rights.
2. It is understood that a permanent prestigious and accommodative building will be acquired or constructed at the Government's expense for the Court and the specifications for these premises shall be detailed in a separate Technical Annex to be agreed upon by the Parties in future.
3. It is also understood that the building and premises shall be used only for the functions of the Court.
4. The Government shall be responsible for the security and protection of the Headquarters of the Court and in this regard it shall install and maintain technology such as Closed Circuit Television (CCTV) and solar reflectors for windows.
5. The Court shall be responsible for:
  - a) Normal maintenance and repairs including painting of both the exterior and interior of the premises and domestic cleaning.
  - b) The operation, maintenance and repairs of the air-conditioning system, the lifts and electricity supply points, water and sewerage systems and telephone connections.
  - c) The maintenance of the fire extinguishing equipment, carpeting and replacement thereof.
6. The Government or its agents will only have access to such areas and rooms or spaces as are permitted to it by the Court or its officials in light of the confidentiality and sensitivity of the Courts' property and information.

#### B. SPECIFICATION OF COURT PREMISES

The building shall be of a high standing and provide for at least the following:

- a) An adequate office for the President of the Court,
- b) An adequate office for the Vice-President of the Court;





- c) An adequate office for each Judge;
- d) An office to be used as a secretariat for each Judge;
- e) Hearing rooms for the Court;
- f) Deliberation rooms for the members of the Court;
- g) Meeting rooms for the Committees of the Court;
- h) Library for the Court;
- i) Adequate offices for personnel of the Registrar's office;
- j) Interpretation and translation rooms;
- k) A common tea room with all facilities;
- l) A restaurant for the staff;
- m) Rooms to accommodate Judges' body guards;
- n) All other rooms required for the Court activities and for its Registry;
- o) A guard house;
- p) A communication room;
- q) Prayer rooms;
- r) Adequate parking spaces;
- s) Dedicated VIP entrances;
- t) Dedicated press/paraplegic entrances;
- u) Press gallery;
- v) Control booth;
- w) Plumbing and sanitary ware to ablutions and catering facilities;
- x) Lifts; and
- y) Electricity reticulation;

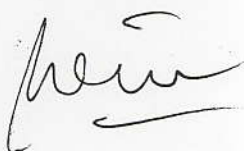
An adequate air- conditioning system for the Court, the Judges' Chambers, offices and rooms shall be provided.

The Court Headquarters building shall have an alternative source of power (i.e.: a generator).

## 1. COURT HALLS

The Headquarters building shall contain three Court halls. One hall shall accommodate eleven Judges, and the other two shall accommodate seven Judges. Both Court halls shall, in addition to the Judges, accommodate Court support staff, Parties, and their agents or legal representatives:

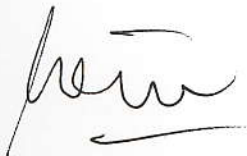
- a) The Court halls shall have direct access to private toilet facilities for Members of the Court and toilets for members of the public with separate facilities for men and women;
- b) The Court halls shall have sufficient space for the public;
- c) The Court halls shall have simultaneous interpretation and four interpretation booths in the languages of the Court mainly, Arabic, English, French and Portuguese;




- d) The Court halls shall be equipped with instantaneous translation, equipment for translation in the working languages of the Court;
- e) The Court halls shall include Judges' consultation rooms, Parties' consultations rooms, witnesses room, support staff room, press room, IT room and cloakroom;
- e) The Court halls shall be supplied with such furniture and equipment as will allow not only the participation of Judges and Court officials, but also of the Parties, their agents and legal representatives; and
- f) The Court halls shall have air-conditioning and lockable doors which are fixed in a double volume entrance area.

## 2. SERVICES

- a) Canteen with sufficient space for kitchen, serving area and seating for up to fifty customers.
- b) Accessible rooms for:
  - i. Media Centre
  - ii. Communications
  - iii. Guard House
  - iv. Secretariat House (Secretarial office)
  - v. Documentation Office
  - vi. Courts' Logistics Office
  - vii. Court Waiting Room
  - viii. Archives Room
  - ix. Safe Room
  - x. Storage space
- c) The Registrar's Department:
  - i. Registrars office situated close to the President and Vice-President's Chambers with an adjoining office for his or her Personal Secretary
  - ii. Deputy Registrars' office with a separate room for his or her Secretary
- d) Offices for Staff estimated at around seventy- six, all categories included
- e) The Library as big as the First Court Hall or bigger, with offices for the Librarian and his or her assistants.







### 3. THE CHAMBERS OF THE PRESIDENT, VICE- PRESIDENT AND OTHER JUDGES AND THE JUDGES' DELIBERATION AND MEETING ROOMS

- a) The President shall have nice self-contained executive and spacious Chambers with carpeting, air-conditioning and an adjoining room to serve as a conference room to accommodate at least eleven Judges
- b) Two adjoining offices – one for the Private Secretary and the other for the Special Assistant
- c) A room where he/ she can receive visitors
- d) Separate toilet facilities
- e) The Vice-President shall have an equally spacious, self-contained and well furnished Chambers with an adjoining office for his or her secretary
- f) During Court sessions, each Judge shall be provided with separate Chambers with a separate room for his or her secretary and with adjoining toilet facilities
- g) There shall be at least two Judges' deliberation rooms and at least two meeting rooms situated close to the Judges' Chambers and equipped with simultaneous interpretation facilities and four interpretation booths for the four languages of the Court.

### 4. FURNITURE, EQUIPMENT AND FITTINGS

- a) The Headquarters building shall be fully furnished and equipped at the expense of the Government at the initial stage.
- b) The Chambers of the President, Vice-President, Judges, Registrar and Deputy Registrar shall be equipped with appropriate tables, chairs and filing cabinets and each shall also be provided with air-conditioning, external and intercom telephones, television sets, wardrobes and curtains. Each of the offices of the Personal Secretaries of the President, Vice-President, Judges, Registrar and Deputy Registrar, and the Registry staff should be equipped with a computer set and have access to internet facilities.
- c) The library shall be equipped with all appropriate furniture, fixtures and fittings including new communications and information technology equipment.
- d) The Premises of the Court shall be provided with furniture, fixtures, fittings and equipment and will include electricity, air-conditioning, lifts, lighting, fire extinguishers plus evacuation signage and door ironmongery.
- e) The Headquarters building shall be equipped with telecommunication facilities such as fixed telephones, PABX system, fax machines and internet and their accessories at the expense of the Government.
- f) Some rooms of the Headquarters building shall be equipped with audiovisual, sound and recording system and/or interpretation equipment at the expense of the Government.






## TECHNICAL ANNEX II

### ACCOMODATION FOR THE PRESIDENT OF THE COURT AND THE REGISTRAR

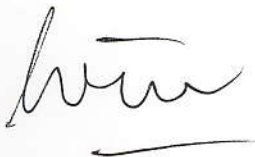
#### A. THE RESIDENCE OF THE PRESIDENT OF THE COURT

1. The residence shall be a place of high standing, completely equipped and furnished, and located in a secure area. This official residence should be provided with security guards at all times.

2. More specifically, the residence shall be a spacious independent villa in a good residential area with at least the following;

- a) One master bedroom with a bathroom: Complete double bedroom furniture including bed and mattress; chandelier; Tapisserie (rugs); Curtains;
- b) Four bedrooms, each with: complete bedroom furniture including beds and mattresses; rugs; curtains;
- c) One fully furnished guest room, with a private bath room
- d) Two bathrooms for the sleeping section
- e) One large fully equipped kitchen [including washing machines] and dishwashers, with storage space
- f) Large reception area: One toilet; Three saloons (of seven seating); Cupboards; Buffet and counter-buffet; Rugs; Curtains; Chandeliers; Coffee tables
- g) Dining room : One long dining table for 12 persons with chairs; Four small tables (four persons each) with chairs; Buffet and counter-buffet; Rugs; Curtains; Chandeliers
- h) One office: Furniture; Rugs; Curtains
- i) Living room (one large hall): Two saloons (of seven-seaters); 8 chairs; Coffee tables; Rugs; Curtains; Chandeliers; Entertainment station (Standard TV Set, DVD and Satellite dish ); Refrigerator
- j) Outside annexe for four house-hold workers with rooms, toilets and bath rooms: simple furniture
- k) Garage for at least two cars; parking spaces
- m) Guard front-post
- n) Garden
- o) General: Air-conditioning; Telephone lines; Security fittings including Closed Circuit Television Systems (CCTV); Back-up electricity generator; Fire extinguishing equipment

3. The above-mentioned furniture and equipment will be provided by the Government at the initial stage only.






## B. THE RESIDENCE FOR THE REGISTRAR

1. The residence for the Registrar shall be an independent villa in a residential area and its specifications shall include at least;


- a) One master bedroom with a bathroom: Complete double bedroom furniture including bed and mattress; Rugs; Curtains;
- b) Three single bedrooms, each with: Complete single bedroom furniture including beds and mattresses; Rugs; Curtains;
- c) Two bathrooms for the sleeping section
- d) Kitchen: Fully equipped; Small storage space
- e) Reception room: One toilet; two saloons (seven-seater); Cupboards; Coffee tables; Rugs; Curtains
- f) Dining room : Living and dining room large hall; One long dining table of twelve persons with chairs; One saloon (seven seater); Coffee table; TV Set; Rugs; Curtains
- g) Outside quarters for house hold workers, two rooms and bathrooms and toilets: Simple furniture
- h) Garage
- i) Guard front-post
- j) Garden
- k) General: Air-conditioning; Telephone lines; Fire extinguishing equipment

2. The above-mentioned furniture and equipment will be provided by the Government at the initial stage only.

## C. FURNITURE AND EQUIPMENT

1. The residences and houses shall be fully furnished and equipped at the expense of the Government

2. The residences and houses shall be equipped with telecommunication facilities such as fixed telephones and internet and their accessories at the expense of the Government



TECHNICAL ANNEX III

**TRANSPORTATION ARRANGEMENTS FOR MEMBERS OF THE COURT**

The Government shall, at the expense of the Court,, facilitate the provision, for Members of the Court, executive cars when they are in Tanzania for sessions and meetings and other official business of the Court.





TECHNICAL ANNEX IV

**SECURITY SERVICES TO BE PROVIDED TO THE COURT**

1. The Government shall provide the necessary security to the Court at its own expense.
2. The President of the Court shall liaise directly with the Minister in charge of Foreign Affairs of the Government regarding specific security matters for the Court.
3. The Court shall ensure that the security services have the necessary access to the Premises of the Court to ensure the effective performance of their functions.
4. The specific security services to be provided by the Government are *inter alia*:
  - a) The Premises will have access control equipment installed. All personnel entering these venues shall be subjected to access control screening with photo accreditation.
  - b) Vehicles entering the Premises shall be subjected to security screening.
  - c) Visible policing shall be provided in the areas surrounding the houses of the Judges or where applicable, the hotels where the Judges will be staying.

